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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **C.R.P. 18/2020**

PRAVEEN KUMAR ARYA & ANR

.....Petitioner

Through: Mr. Mayank Rustagi and Mr. J. Karan
Malhotra, Advocates.

versus

VED PRAKASH ARYA & ANR

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

20.11.2024

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1. A Revision Petition under Section 115 of CPC has been filed to challenge the Order dated 14.08.2019 vide which the application under Order VII Rule 11 CPC of the Petitioner/Defendant has been dismissed.
2. The Petitioner (Defendant No.1 and 2) has explained that a Sale Deed was executed in their favour by Defendant No.3 Sh. C.B. Arya (since deceased) and now represented by Plaintiff No.1, on the basis of GPA dated 18.06.2004 executed by Plaintiff No.1 and 2 (who are Respondent No.1 and 2) in favour of their father/Defendant No.3. It is further submitted that it is only in 2017 that the present Suit has been filed by the Plaintiffs (Respondent) challenging the Sale Deed on the ground that Defendant No.3, their father, had been fraudulently induced into execution of the Sale Deed on the pretext of signing of some loan documents.



3. It is submitted that the Petitioner had first filed a Suit bearing NO.CS536280/2016 for Injunction to restrain the Defendant No.3 from disturbing the peaceful possession of the Petitioners. In the said suit, the Defendant No.3/GPA Holder of the respondents filed a Counter-claim bearing CS No.506/2017 dated 02.05.2017 challenging the Sale Deed on the same grounds.

4. Thereafter, the respondents have filed the present suit on 07.06.2017, wherein they have challenged the Sale Deed dated 24.11.2009 on the ground that they have got it executed fraudulently by the GPA holder/Defendant No.3.

5. It is submitted that there is no challenge to the GPA in favour of Defendant No.3 by the Plaintiffs; rather it is admitted that the GPA had been executed by the Plaintiffs in favour of their father. There is also no relief claimed against the father. They have no locus to challenge the Sale Deed without first challenging the GPA.

6. Moreover, the father, who is the GPA holder, has already filed a Counter-claim in which the Plaintiff No.1 Shri Ved Prakash Arya has already been substituted. It is submitted that once, the Sale Deed already stands challenged by way of an earlier suit, the subsequent suit filed by the Plaintiffs is not maintainable and does not disclose any cause of action.

7. None has appeared on behalf of the Respondents.

8. The Respondents are proceeded ex-parte.

9. **Submissions heard.**

10. From the submissions addressed on behalf of the Revisionist it is evident that there is a challenge to the Sale Deed executed way back in 2009 by Defendant No.3 Late Shri C.B. Arya, on the basis of a GPA. There is no



challenge, whatsoever, made by the Respondents/Plaintiffs to the execution of GPA. It is the GPA holder Shri C.B. Arya, who has claimed that he had been fraudulently made to sign the Sale Deed for which he had already filed an earlier suit which is pending.

11. There is no cause of action disclosed in the present suit in favour of the Plaintiffs. The Application under Order VII Rule 11 CPC is hereby allowed and the Suit is rejected.

12. The Revision Petition stands disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 20, 2024/va